

Testimony of
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Trustee, National Railroad Retirement Investment Trust
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Subcommittee on Railroads
Committee on Transportation and Infrastructure
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Mr. Chairman and Members of the Subcommittee, my name is Jim Hixon, and I am the Executive Vice President, Law and Corporate Relations, of Norfolk Southern Corporation, as well as a Member of the Board of Trustees of the National Railroad Retirement Investment Trust. I am pleased to be here today and would like to thank the Subcommittee for giving me this opportunity to testify about the Trust's operational experience since its inception just a few years ago.

In December 2001, years of collaboration between rail management, rail labor, and Congress resulted in the enactment of legislation forming the National Railroad Retirement Investment Trust, and on the day it was officially established, the \$20 billion Trust became one of the largest pension investment trusts in the United States. This very successful collaboration has continued as we have worked to build this statutory concept into an actual institution, and the need for a collaborative effort has been magnified because of the Trust's very unique status as a public-private partnership. As a result, transforming the Trust into an entity that could effectively and efficiently manage and invest railroad retirement assets for the benefit of beneficiaries has presented many challenges in the Trust's formative years.

In the 41 days between enactment and the Trust's establishment date of February 1, 2002, a labor-management implementation task force worked almost around the clock to create this new entity. The group included representatives of all major railroads and several railway labor unions, and called on the expertise of a variety of senior executives from industry to provide advice on legal, investment, treasury functions, insurance, and human resources issues. The task force also met and coordinated closely with representatives of the Railroad Retirement Board on various start-up issues, and ultimately provided recommendations regarding the outline of a basic organizational structure to be considered by the new Board of Trustees when it first convened.

NRRIT's Board of Trustees met for the first time on February 1, 2002, with participation by three appointees selected by rail management and three appointees selected by rail labor. Many of the initial challenges were organizational, including acceptance by the Trustees of their positions and notification to the Railroad Retirement Board, selection of a chair, adoption of bylaws, retention of counsel, and acquisition of insurance and bonding

coverages. During the initial months, the Board approved and adopted internal policies on administrative issues, including a conflicts of interest statement of policy and a confidentiality policy. We were also successful in selecting, after conducting two nationwide searches, highly qualified candidates for the statutorily mandated independent Trustee and hiring our first full time employee, the Chief Investment Officer.

With these key individuals in place, and the broad outline of an entity beginning to take shape, the Board began the process of developing an investment structure to enable the receipt and management of railroad retirement assets for investment. In doing so, the Board turned its attention to fundamental investment issues, including the development of investment guidelines. As part of this process, the Trustees and industry experts met with senior investment professionals from some of the country's largest corporate pension plans and Taft-Hartley plans to explore a variety of investment and organizational issues. Among the advice received from these plans was the importance of hiring a dedicated staff, including specialized directors and advisors in various asset classes, that could have the primary responsibility for making investment recommendations to the Board of Trustees, rather than having the Board rely on outside investment advisors for such recommendations. My fellow Trustee, Joel Parker, will discuss these and other investment-related issues in greater detail.

Early on, the Board of Trustees evaluated proposals from all of the major accounting firms and selected Deloitte & Touche as its independent auditor. We also formed an Audit Committee to aid in the development of internal accounting procedures and administrative controls. The committee has continually reviewed key aspects of the Trust's auditing, financial reporting, internal accounting, and internal controls processes as it has grown, and through its relationships with Trust staff and the Trust's custodian bank and independent auditor, the committee has developed effective controls and reporting processes. As part of its ongoing review of new statutory and regulatory developments in the areas of internal accounting and controls contained in the Sarbanes-Oxley Act and pronouncements by various regulatory agencies, the Audit Committee has also implemented various best practices recommendations appropriate for application to the Trust.

Development of the Trust has also required a great deal of coordination with federal government agencies, and the Trust has maintained regular communications with the Railroad Retirement Board and the Department of Treasury. As a result of discussions with these agencies, the Trust became a party to a four-way Memorandum of Understanding which outlines the budgetary, transfer, accounting, and financial reporting responsibilities with respect to assets held by the Trust and assets held within the Treasury for the Trust.

Monthly Trust information reports submitted pursuant to the MOU, together with quarterly reports transmitted to the Congressional committees of jurisdiction and the annual management report that the Trust is required to submit to Congress and the Executive branch, have provided the means to communicate the status of Trust activities to interested parties. We have worked closely with the Railroad Retirement Board to develop a strong partnership, while maintaining the investment independence mandated by Congress. We recognize that the Congressional rationale for this separation was rooted in the fact that, although the Trust is responsible for the management and investment of federal government assets, there was a concern about the implications of the federal government itself investing in, and thereby

potentially influencing, the financial markets. Thus, while the Trust was established by federal statute, and the reporting requirements and fiduciary standards applicable to it are set forth in statute, Congress made clear that the Trust is not a department, agency, or instrumentality of the Government of the United States.

This unique status -- as a non-governmental entity that is responsible for the management and investment of government assets -- has presented some challenges in the Trust's first four-plus years. Among these challenges has been coordinating the audit of the Trust's year-end financial statement with that of the Railroad Retirement Board, so that the Trust's audited statement can be included in the RRB's own financial statement and Statement of Social Insurance, for eventual inclusion in the Financial Report of the United States Government.

The Trust's unique status has been recognized by the Internal Revenue Service, which has modified our IRS reporting requirement in light of the statutorily mandated annual management report. On a related matter, the Trust is preparing to submit a ruling request to the Service to clarify the application of other tax rules to the Trust. In addition, we have worked with the Congress to secure various technical corrections to address issues not anticipated in the original legislation.

Challenges like these are inevitable given the quasi-governmental nature of the Trust. However, they have been, and will continue to be, successfully resolved because of the continued cooperative relationship that exists between the Trust, the RRB, and other government agencies.

Mr. Chairman, there are a number of ways to measure success, and in my opinion, the National Railroad Retirement Investment Trust has been a categorical success by any of these. A little over four years ago, six Trustees were seeking a seventh Trustee and the Trust's first employee. Just last month, the Trust's newly hired chief accounting officer brought to twelve the number of full time professionals employed by the Trust. Trustees have transitioned on and off of the Board, but the spirit of cooperation that brought about railroad retirement reform is just as strong today as it was four years ago.

On behalf of my fellow Trustees, I again thank you for the opportunity to appear before you today, and would be happy to respond to any questions that you might have.